

## **Exhibit “H”**

**Kyle Tate**

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**From:** "Kyle Tate" <ktate@tatelawfirm.com>  
**To:** "PECK, JULIANNE (PH)" <Julianne.Peck@dbr.com>  
**Cc:** "Packer, Rosetta" <RPacker@McCarter.com>; "Boyer, Peter J." <PBoyer@McCarter.com>; <wmatthews@saul.com>; "Lyn Wescott" <LWescott@saul.com>  
**Sent:** Thursday, January 08, 2004 11:59 AM  
**Subject:** Fw: meet and confer

Juli,

You nor John responded to the below e-mail. I assume by your failure to respond that you and John understood the document requests in our 4th Request for Production with no problem. I am hopeful that you will provide a response promptly as previously requested.

Thanks,  
Kyle

----- Original Message -----

**From:** [Kyle Tate](#)  
**To:** [John.Chesney@dbr.com](#) ; [PECK, JULIANNE \(PH\)](#) ; [Packer, Rosetta](#) ; [Boyer, Peter J.](#)  
**Sent:** Wednesday, December 24, 2003 10:29 AM  
**Subject:** Re: meet and confer

John,

I'll look for your substantive responses on the 4th Request for Production and I don't believe the Requests were untimely. Anyway, in reviewing the 4th Request this morning, I want to make sure that you and Juli understand Request number #102 and Request numbers #108 and #129 so we can proceed efficiently and you can respond appropriately.

Request #102 should include documents between the manufacturer(s) (Toshiba Corp. of Japan or other Toshiba corp. involved in the manufacturing) and its subsidiary TAMS regarding the type equipment located at DDI and other diagnostic facilities. Some, but not all of the documents would be as follows:

- Toshiba Field Reports
- Toshiba Interoffice Memos
- Toshiba National Service Support Reports
- Toshiba memos re: meetings
- Toshiba Work Orders
- Toshiba "Product Issues"
- Toshiba District Support Monthly Reports of Complaints
- Toshiba Historical Activity Reports & Summaries
- Hospital Service Reports

TAMS is arguing that the poor images were a result of operator error / lack of training. We believe that the equipment had a history of problems and that the same or similar problems occurred at DDI, thus we are entitled to such relevant documents showing the history of problems to counter your operator error / lack of training argument. This information will also show your client's knowledge of the problems and the obvious material misrepresentations regarding the equipments' capabilities before, during and after the sale to DDI. TAMS has already disclosed some documents confirming its knowledge of the problems, but we need production of all such documents.

Request #108 and #129 should be understood to include all service reports, field reports, historical activity reports, etc. and all customer complaints from other Toshiba customers concerning the same or similar type equipment that was at DDI. This information is obviously relevant for many reasons including but not limited to the equipments' history of inherent problems which shows that the operators are not to blame. Per Request #108 and #129, please produce the above mentioned records and/or other relevant records from at least the following facilities:

1. Golf Diagnostic  
Golf Diagnostic Imaging Center  
9680 Golf Road  
Des Plaines, IL 60016  
847-296-5366
2. SDMI  
Steinberg Diagnostic Medical Imaging
3. Great Plains  
Great Plains Regional Medical Center  
1705 West 2nd Street  
Elk City, OK 73644  
580-225-2511
4. Rockland  
Mid Rockland Imaging  
18 Squadron Boulevard  
New City, NY 10956  
845-634-XRAY
5. Rapid Imaging
6. Summa Health
7. NMI Roxborough  
National Medical Imaging  
498 Roxborough Avenue  
Roxborough, PA 19128  
215-485-9980
8. West Florida
9. Diagnostic Clinic Largo  
Diagnostic Clinic  
1551 West Bay Drive  
Largo, FL 33770  
727-581-8767
10. Children's Denver
11. Garden City  
MRImaging at Garden City  
1103 Stewart Avenue, Suite 104  
Garden City, NY 11530
12. Hood River  
Providence Hood River Memorial Hospital  
811-13th Street  
Hood River, OR 97037  
541-713-3911
13. Cranford Diagnostic Imaging Center

25 South Union Avenue  
Cranford, New Jersey 07016

14. Florida Institute for Advanced Diagnostic Imaging  
9238 U.S. Highway 19  
Port Richey, FL 34668

15. Medical Imaging Center, P.C.  
6 Northwestern Drive  
Bloomfield, CT 06002

16. Mountain Medical Imaging Center  
1485 East Skyline Drive  
South Ogden, UT 84403

I hope that you will cooperate with the Requests so I don't have to pursue production through the Court and/or via the subpoenas that were previously issued.

I can also send the above in a formal letter if you would like, just let me know.

Thanks,  
Kyle

----- Original Message -----

**From:** [John.Chesney@dbr.com](mailto:John.Chesney@dbr.com)

**To:** [ktate@tatelawfirm.com](mailto:ktate@tatelawfirm.com)

**Sent:** Wednesday, December 24, 2003 8:18 AM

**Subject:** Re: meet and confer

Kyle

Two things.

First, I'm a bit behind on a filing I need to get in today and won't be able to talk at 10. I will join in the brief scheduling discussion that Pete has set up for later on. Maybe you and I should spend a couple of minutes on scheduling before that call.

Second, when you referenced the 4th document request as having been due in late November, I was confused as to what you were talking about. That request was actually untimely under the existing deadline, so we need to get you substantive (instead of just timeliness) objections as a predicate to a meet and confer. We will do that promptly.

I will be available to discuss discovery with you or your designee through New Year's. If you need to be involved and are unavailable that entire time, you can talk with Juli during the first week in January.

John

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Thank you very much.